

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA, )  
                                )  
                                Plaintiff, )                                4:11CR3038  
                                )  
                                )  
                                v. )  
                                )  
                                )  
JOEL L. WITT, )                                TENTATIVE FINDINGS REGARDING  
                                )                                OBJECTION TO THE SECOND REVISED  
                                )                                PRESENTENCE INVESTIGATION  
                                Defendant. )                                REPORT

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The only objection made to the Second Revised Presentence Investigation Report is by the government to paragraph 35, insofar as it fails to provide for a two-level increase in the guideline level under Section 2B.3.1(b)(2)(F) "if a threat of death was made." The government has indicated an intention to provide the testimony of two tellers to support its objection. Time for that, which probably will not exceed one hour, will be available for that purpose immediately before the sentencing. On the same subject is the plaintiff's motion for upward departure, filing 67, pursuant to U.S.S.G. § 5K2.0(a)(1)(A). Resolution will be made upon completion of any evidence and argument received.

The defendant has filed his motion for variance, filing 72. No request has been made by the defendant for presentation of testimony.

Other than the matters raised by the foregoing objection and motions, the Second Revised Presentence Investigation Report is found to be true and accurate. Objections may be made at the time of the sentencing.

Dated February 1, 2012.

BY THE COURT

s/ Warren K. Urbom  
United States Senior District Judge